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12 *Attorneys for Defendant*

13 *Phillipe Rouas*

14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 WILLIAM SOTO,

17 Plaintiff,

18 v.

19 ARIA RESORT & CASINO, LLC;
20 MELANIE SALJOUGUI; YONG HOON
21 LEE; JERALD HEDRICK; ROBERT
22 FISHBOURNE; TODD OWEN; PHILLIPE
23 ROUAS,

24 Defendants.

Case No.: 2:16-cv-00064-JAD-PAL

**DEFENDANT PHILLIPPE
ROUAS'S EX PARTE MOTION
FOR ENLARGEMENT OF TIME
TO MOVE, ANSWER, OR
OTHERWISE RESPOND TO
PLAINTIFF'S [44] FIRST
AMENDED COMPLAINT**

[FIRST REQUEST]

25 Defendant PHILIPPE ROUAS ("Rouas"), by and through his counsel, the law firm
26 Enenstein Ribakoff LaViña & Pham, hereby submits this Ex Parte Motion for Enlargement of
27 Time to Move, Answer or Otherwise Respond to Plaintiff WILLIAM SOTO's ("Plaintiff") First
28 Amended Complaint. (ECF No. 44).

This Motion is made and based upon the memorandum of points and authorities and
exhibits attached hereto, all pleadings, declarations, affidavits, and other evidence on file in this
action, and upon such oral argument and/or documentary evidence as may be presented at the

hearing on this motion.

DATED this 12th day of December, 2016.

Respectfully submitted,

ENENSTEIN RIBAKOFF LAVIÑA & PHAM

/s/ Robert A. Rabbat

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Attorneys for Defendant

Phillipe Rouas

**DECLARATION OF ROBERT A. RABBAT, ESQ., PURSUANT TO LR 7-5(b) IN
SUPPORT OF THE EX PARTE MOTION FOR ENLARGEMENT OF TIME**

I, Robert A. Rabbat, Esq., declare and say:

1. I am an attorney licensed to practice law in all courts in the State of Nevada. I am a partner of the law firm Enenstein Ribakoff LaVina & Pham, counsel of record for Phillippe Rouas in this action. I have personal knowledge of all facts stated herein unless specifically stated upon information and belief. I am over the age of 18 and I am competent to testify hereto.

2. I submit this declaration pursuant to Local Rule 7-5(b) and in support of Mr. Rouas' ex-parte motion for enlargement of time to file a motion, answer, or other response to Plaintiff's First Amended Complaint filed on May 23, 2016. (ECF No. 44).

3. I was retained to represent Mr. Rouas today, December 12, 2016.

4. Mr. Rouas is currently living outside of the United States.

6. Mr. Ruos only very recently learned of the service of Plaintiff's First Amended Complaint by publication.

7. The current deadline for Mr. Rouas to file any response to Plaintiff's First Amended Complaint is today, December 12, 2016.

8. I am unable to contact Plaintiff to obtain a timely stipulation because his counsel only provided his last known address in Idaho prior to withdrawing from this matter. (ECF No. 80).

9. I have no knowledge of a more expeditious means of contacting Plaintiff prior to the deadline to respond to Plaintiff's First Amended Complaint.

10. The short time frame to respond to the First Amended Complaint as well as Plaintiff's limited contact information are compelling reasons and good cause under Local Rule 7-5(b) to permit this ex parte motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 12th day of December, 2016 in Las Vegas, Clark County, Nevada.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 12th day of December, 2016 in Las Vegas, Clark County, Nevada.

/s/ Robert A. Rabbat

Robert A. Rabbat. Esq.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Rouas seeks an extension to move, answer, or otherwise respond to Plaintiff's First Amended Complaint. There is good cause to permit the extension under Fed. R. Civ. P. 6(b) as Plaintiff is currently outside of the United States and needs additional time to assess the facts and circumstances of Plaintiff's claims to prepare an adequate response. For these reasons,

Ruoas requests an extension of thirty (30) days, until **Wednesday, January 11, 2017**, to prepare and submit a response.

II. STATEMENT OF FACTS

On or about May 23, 2016, Plaintiff filed his First Amended Complaint, naming Rouas as a defending party. On or about August 22, 2016, Plaintiff filed an ex parte motion to extend time to serve the First Amended Complaint. (ECF No. 51). The Court granted Plaintiff ex parte motion, permitting him to provide a proof of service by October 21, 2016. (ECF No 52). On or about October 12, 2016, Plaintiff submitted a second ex parte motion for an extension of time. (ECF No. 73). The Court granted Plaintiff's motion for enlargement of time, permitting him an additional forty-five (45) days to serve the complaint. (ECF No. 74). On or about November 28, 2016, Plaintiff filed an Affidavit of Publication with the Court. (ECF No 85). The Affidavit of Publication provides that the summons was published in the Nevada Legal News from October 24, 2016 to November 21, 2016.¹ *Id.*

III. DISCUSSION

A. THERE IS GOOD CAUSE UNDER FED. R. CIV. P. 6(B) TO GRANT A BRIEF EXTENSION

Ruoas respectfully requests an extension of thirty (30) days, to **Wednesday, January 11, 2017**, in which to plead or otherwise respond to the First Amended Complaint.

Rule 6(b) of the Federal Rules of Civil Procedure states, for cause shown, a court may extend the time in which to respond to a motion or application if the request is made before the original time expires:

When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the parties, by written stipulation of counsel filed in the action, may enlarge the period, or the court **for cause shown**

¹ This Motion refers to the Affidavit of Publication for the purposes of timing only. It is not to be construed as a waiver of any potential claims under Fed. R. Civ. P. 12(b).

may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 50(b), 50(c)(2), 52(b), 59(b), (d) and (e) and 60(b), except to the extent and under the conditions stated in them.

Fed. R. Civ. P. 6(b)(Emphasis added).

Here, Rouas was supposedly served as of the last day of publication on November 21, 2016. Based on this date, the deadline to file a response pursuant to Fed. R. Civ. P. 12(a)(1)(A) is today, December 12, 2016.

Rouas respectfully submits there is good cause to extend his time to respond to Plaintiff's First Amended Complaint. Rouas is not currently in the United States, he was made aware of the service by publication very recently, and was only today able to retain counsel that is licensed to practice before this Court. Rouas therefore needs additional time to analyze the facts and law to formulate any potential response to Plaintiff's First Amended Complaint. An extension of thirty (30) days should be a sufficient amount of time to prepare said response.

IV. CONCLUSION

Defendant PHILIPPE ROUAS respectfully requests an order by this Court extending his time to move, answer, or otherwise respond to Plaintiff WILLIAM SOTO's First Amended

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Complaint by thirty (30) days, to on or about **Wednesday, January 11, 2017.**

DATED this 12th day of December, 2016.

Respectfully submitted,

ENENSTEIN RIBAKOFF LAVIÑA & PHAM

/s/ Robert A. Rabbat

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Attorneys for Defendant

Phillipe Rouas

ORDER

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

DATED: January 17, 2017

CERTIFICATE OF SERVICE

Pursuant to Fed.R.Civ.P. 5(b), I hereby certify that on the 12th day of December, 2016, I served a true and correct copy of the foregoing **DEFENDANT PHILLIPPE ROUAS’S EX PARTE MOTION FOR ENLARGEMENT OF TIME TO MOVE, ANSWER, OR OTHERWISE RESPONDE TO PLAINTIFF’S [44] FIRST AMENDED COMPLAINT [FIRST REQUEST]** as follows:

X BY MANDATORY ELECTRONIC SERVICE (e-service via PACER);

And

X BY US MAIL as addressed below.

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Plaintiff in Pro Se

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